

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Theodor Albert, Presiding
Courtroom 5B Calendar**

Wednesday, September 8, 2021

Hearing Room

5B

10:00 AM

8:00-000000

Chapter

#0.00 Hearings on this calendar will be conducted using ZoomGov video and audio.

For information about appearing in person (or a hybrid hearing) please visit <https://www.cacb.uscourts.gov/judges/honorable-theodor-c-albert>.

Parties in interest and members of the public may connect to the video and audio feeds, free of charge, using the connection information provided below.

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Neither a Zoom nor a ZoomGov account is necessary to participate and no pre-registration is required. The audio portion of each hearing will be recorded electronically by the Court and constitutes its official record.

Video/audio web address:

<https://cacb.zoomgov.com/j/1616449076>

ZoomGov meeting number: 161 644 9076

Password: 524467

Telephone conference lines: 1 (669) 254 5252 or 1 (646) 828 7666

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For more information on appearing before Judge Albert by ZoomGov, please see the "Notice of Video and Telephonic Appearance Procedures for Judge Theodor C. Albert's Cases" on the Court's website at: <https://www.cacb.uscourts.gov/judges/honorable-theodor-c-albert> under the "Telephonic Instructions" section.

To assist in creating a proper record and for the efficiency of these proceedings, please:

- Connect early so that you have time to check in.
- Change your Zoom name to include your calendar number, first initial and last name, and client name (*ex. 5, R. Smith, ABC Corp.*) if appearing by video. This can be done by clicking on "More" and "Rename" from the Participants list or by clicking on the three dots on your video tile.
- Mute your audio to minimize background noise unless and until it is your turn to speak. Consider turning your video off until it is your turn to appear.
- Say your name every time you speak.
- Disconnect from the meeting by clicking "Leave" when you have completed your appearance(s).

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Docket 0

Tentative Ruling:

- NONE LISTED -

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8:20-10269 Rafik Youssef Kamell

Chapter 11

**#1.00 Debtor's Disclosure Statement Describing Debtor's Chapter 11 Plan of Reorganization Dated November 2, 2020
(cont'd from 7-28-21)**

Docket 106

***** VACATED *** REASON: OFF CALENDAR - ORDER GRANTING MOTION FOR ORDER EXTENDING DATES AND DEADLINES IN SCHEDULING ORDER REGARDING DEBTOR'S FILING OF AMENDED DISCLOSURE STATEMENT AND HEARING ON ADEQUACY OF DEBTOR'S AMENDED DISCLOSURE STATEMENT ENTERED 9-02-21**

Tentative Ruling:

Tentative for 7/28/21:
See #11.

Tentative for 1/27/21:

Debtor's reply indicates an intent to amend the DS consistent with several of the points made in the objections, and particularly, the U.S. Trustee and IRS objections. However, Debtor asks the court to approve the DS with the proposed amendments before actually reviewing them, which is premature given the size and seriousness of the alleged discrepancies. The court requires a hearing on the amended DS to ensure that the proposed amendments cure the defects and shortcomings acknowledged by Debtor and enable the interested parties to conduct their own review. On the bright side, it does not seem that the necessary amendments to the DS will be especially cumbersome, and thus, should not require a considerable continuance period. Debtor appears correct that many of the SIF issues raised are confirmation issues, not disclosure adequacy issues. For example, SIF asserts that the DS does not adequately describe its remedies should the Debtor default under the plan. Debtor persuasively argues that what SIF is really asserting is that the plan is not fair and equitable to them, which is a confirmation issue under §1129(b)(2)(A). In any case, Debtor asserts that SIF

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Rafik Youssef Kamell

Chapter 11

will retain the lien securing its claim and receive deferred cash payments having a present value of at least the value of its Allowed Claim and equal to the value of its collateral as of the Effective Date. SIF also raises concerns that the DS does not offer a way for Debtor to pay the balloon payment due in fifteen years. Again, Debtor points out that such income projections are included in the current DS and asserts that this objection is appropriately understood as a confirmation issue because it raises questions of feasibility, not adequate disclosure. While this is true in the abstract, if a confirmation issue is too large or profound, it may also go to the question of whether the additional resources for amendment of a disclosure on a patently unconfirmable plan are prudent. In this category is the question of how debtor intends to amortize a priority claim of the size claimed by IRS in the few remaining months available under the maximum amortization period permitted under §1129(a)(9). The court notes that much of the claim is comprised of estimated taxes, but this threshold issue should be addressed.

Although SIF, an over-secured creditor, points to numerous alleged deficiencies in the DS, none of them appear to be obviously fatal. Debtor will be amending the DS and would be well-advised to take some of SIF's objections seriously by including more direct answers in the amended DS, particularly around the issue of feasibility. Debtor may be correct that many of SIF's objections are confirmation issues, but what harm is there in addressing at least some of them now, particularly on some of the more serious feasibility questions?

As Debtor will be amending the DS as noted above to address both the U.S. Trustee's and IRS's objections, the hearing will be continued to allow Debtor time to make such amendments as appear necessary and allow all interested parties time to review the amended DS. Debtor is advised to address the feasibility questions raised by SIF (and as to the IRS priority claim) as confirmation of the plan will almost certainly be challenged on that ground.

Also, the Declaration of IRS agent Johnson is disturbing. The Debtor cannot expect to obtain an approval of disclosure, or even to remain in Chapter 11, without displaying suitable cooperation with the IRS whose very large claim represents a major impediment. Moreover, this is no longer a

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Rafik Youssef Kamell

Chapter 11

young case and non-cooperation at this critical juncture can call good faith in general into question.

Continue. Appearance: required

Party Information

Debtor(s):

Rafik Youssef Kamell

Represented By
Robert P Goe

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8:18-10486 Ron S Arad

Chapter 11

#2.00 Objection to Claims Of RBS Citizens, N.A., Citizens Financial Group, Inc
(cont'd from 7-14-21 per order approv g stip. to cont. objection to claims
entered 7-13-21)

Docket 379

Tentative Ruling:

Tentative for 9/8/21:

The mediation was a success? Resolves Citizen claim? So, what remains
opposing confirmation?

Party Information

Debtor(s):

Ron S Arad

Represented By
G Bryan Brannan

Movant(s):

Ron S Arad

Represented By
G Bryan Brannan